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2010 MAR 29 PM 2:33
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 Paget English,
12 Plaintiff,
13 v.
14
15 Union Adjustment Co., Inc.,
16 Defendant.

CV10 2283
Case No.

MMM

(SMX)

COMPLAINT FOR UNLAWFUL DEBT
COLLECTION PRACTICES

DEMAND FOR JURY TRIAL

BY FAX

20 PRELIMINARY STATEMENT

21 1. This is an action for actual and statutory damages plus costs and attorney
22 fees brought by an individual consumer for defendant Union Adjustment Co., Inc.'s
23 (hereinafter, "Defendant") violations of the federal Fair Debt Collection Practices Act, 15
24 U.S.C. §1692, *et seq.* (hereinafter "FDCPA") and the California Rosenthal Fair Debt
25 Collection Practices Act, Cal. Civ. Code §1788, *et seq.* (hereinafter, "state Act"), which
26 prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION AND VENUE

2. The jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1337.

3. Plaintiff Paget English (hereinafter, "Plaintiff") is a natural person and resident of Los Angeles County, California.

4. Upon information and belief, Defendant is a California corporation with its principal place of business in Burbank, California

FACTS

5. On or about March 31, 2009, Defendant sent Plaintiff a communication via mail using an envelope that contained the statement "A Professional Debt Collection Service" in the return address portion of the envelope directly below "Union Adjustment Company" and a logo of the United States with California highlighted.

6. On or about October 1, 2009, Defendant sent Plaintiff a letter titled "5-DAY NOTICE." In this letter, Defendant threatened "that unless payment is made within 5 days from date of this notice, this matter will be referred to our attorney." The letter then continued, "If this recommendation results in the filing of a legal action and the court rules against you, you may become liable for additional costs and expenses as determined by the court."

7. Upon information and belief, Defendant had no intention to refer the matter to Defendant's attorney if payment was not made within 5 days of the October 1, 2009 letter and in fact did not do so.

8. Upon information and belief, Defendant had no intention of filing a legal action against Plaintiff if payment was not made within 5 days of the October 1, 2009 letter and in fact did not do so.

9. The October 1, 2009 letter from Defendant to Plaintiff was misleading, deceptive, and confusing to Plaintiff because this account had already been through the litigation process and during that process Defendant was represented by an attorney.

10. As a direct and proximate result of Defendants' actions, Plaintiff suffered actual damages including, but not limited to, financial harm, loss of productivity, anxiety, indignation, irritability, nervousness, fear, worry, loss of happiness, headaches, loss of sleep, insomnia, nausea, stress, and anger.

FIRST CLAIM FOR RELIEF

Violations of Federal Fair Debt Collection Practices Act

11. Plaintiff realleges and incorporates paragraphs 1 through 10 above as if fully set out herein.

12. Plaintiff is a “consumer” within the meaning of the FDCPA.

13. Defendant is a “debt collector” within the meaning of the FDCPA.

14. Defendant alleged that Plaintiff owed a “debt” within the meaning of the FDCPA.

15. Defendant violated the FDCPA, 15 U.S.C. §1692e(2), by giving a false impression of the character, amount, or legal status of the alleged debt in a communication with Plaintiff.

16. Defendant violated the FDCPA, 15 U.S.C. §1692e(5), by threatening to take an action that could not legally be taken and/or that was not intended to be taken.

17. Defendant violated the FDCPA, 15 U.S.C. §1692e(14), by using a name other than the true name of Defendant's business.

18. Defendant violated the FDCPA, 15 U.S.C. §1692e preface and e(10), by using false, deceptive, or misleading representations or means in connection with attempted collection of the alleged debt.

19. Defendant violated the FDCPA, 15 U.S.C. §1692f(8), by communicating with Plaintiff by use of the mails while using language and/or symbols, other than Defendant's address, on the envelope.

20. Defendant violated the FDCPA, 15 U.S.C. §1692f preface, by using unfair or unconscionable means to collect or attempt to collect the alleged debt.

21. Defendant violated the FDCPA, 15 U.S.C. §1692d preface, by engaging in conduct the natural consequence of which was to harass, oppress, and/or abuse in connection with attempted collection of the alleged debt.

22. As a result of the above violations of the FDCPA, Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, costs, and attorney fees.

SECOND CLAIM FOR RELIEF

Violations of California Fair Debt Collection Practices Act

23. Plaintiff realleges and incorporates paragraphs 1 through 22 above as if fully set out herein.

24. Plaintiff is a "debtor" within the meaning of the state Act.

25. Defendant is a “debt collector” within the meaning of the state Act.

26. Defendant alleged a “debt” is owed by Plaintiff within the meaning of the state Act.

27. Defendant violated the state Act, Cal. Civ. Code §1788.13(j), by falsely representing that a legal proceeding will be instituted unless payment of the alleged debt was made.

28. Each and every violation of the FDCPA as described herein is a violation of the state Act, Cal. Civ. Code §1788.17.

29. As a result of the above violations of the state Act, the defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, costs, and attorney fees.

WHEREFORE, Plaintiff respectfully pray that judgment be entered against Defendant for the following:

- A. Actual damages of at least \$10,000;
- B. Statutory damages pursuant to 15 U.S.C. §1692k in the amount of \$1,000 per violation of the FDCPA;
- C. Statutory damages pursuant to Cal. Civ. Code §1788.30(b) in the amount of \$1,000 per violation of the state Act;

1 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. §1692k and Cal.
2 Civ. Code §1788.30(c);

3 E. For such other and further relief as may be just and proper.

4

5 Dated: March 27, 2010

LAW OFFICES OF PAUL E. SMITH

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7 By: PSmith

PAUL E. SMITH
8 Attorney for Plaintiff
9 PAGET ENGLISH

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11 **DEMAND FOR JURY TRIAL**

12 Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal
13 Rules of Civil Procedure.

14 Dated: March 27, 2010

LAW OFFICES OF PAUL E. SMITH

15 By: PSmith

PAUL E. SMITH
16 Attorney for Plaintiff
17 PAGET ENGLISH

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Margaret M. Morrow and the assigned discovery Magistrate Judge is Stephen J. Hillman.

The case number on all documents filed with the Court should read as follows:

CV10 - 2283 MMM (SHx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Paget English v. Union Adjustment Co., Inc.	PLAINTIFF(S) DEFENDANT(S).	CASE NUMBER CV10 2283 <i>MMW (SHK)</i>
SUMMONS		

TO: DEFENDANT(S): Union Adjustment Co., Inc.

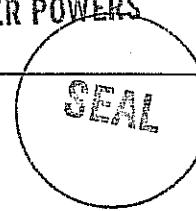
A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Paul E. Smith, whose address is 16870 W. Bernardo Dr., Suite 400, San Diego, California 92127. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: MAR 29 2010

By: CHRISTOPHER POWERS
 Deputy Clerk
(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Person Date March 27, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))